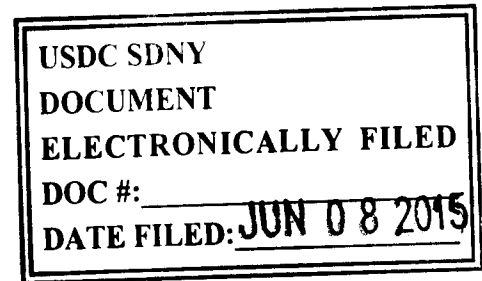


Hunter T. Carter (HC-1844)
Jennifer L. Bougher (JB-6245)
Arent Fox LLP
1675 Broadway
New York, NY 10019
Telephone: (212) 484-3946
Fax: (212) 484-3990
carter.hunter@arentfox.com
bougher.jennifer@arentfox.com



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Luitpold Pharmaceuticals, Inc.,

Plaintiff,

v.

Ed. Geistlich Söhne A.G. Für Chemische Industrie,
and OSTEOMEDICAL LTD.

Defendants.

Case No. 11-cv-0681 (KBF) (THK)

**PLAINTIFF'S MOTION FOR
LEAVE TO FILE DOCUMENTS
UNDER SEAL**

Pursuant to the requirements of Paragraph 12 of the Stipulated Confidentiality Order and Inadvertent Protection Non-Waiver Order, so-ordered by the Court on March 2, 2012 (the "Confidentiality Order"), Plaintiff moves for entry of an order granting leave to file the following under seal and to keep them under seal until further order of the Court: Plaintiff's Opposition to Defendants' Motion *in Limine* to Determine Status of Document AB000930 as Record Evidence and supporting exhibits to the Declaration of Jeff Leung (collectively, the "Protected Material").

In support of its motion, Plaintiff states as follows:

1. On May 29, 2015, Defendants filed their Motion *in Limine* to Determine Status of Document AB000930 as Record Evidence.
2. Defendants indicated that, pursuant to the Second Circuit's Opinion, Defendants intend to renew their summary judgment motion against Luitpold's claims in this matter.
3. Defendants maintain that Document AB000930 is relevant to Defendants' argument that summary judgment is appropriate because the parties' 1994 Agreement is indefinite and therefore terminable at will after a reasonable time.
4. Through Plaintiff's opposition memorandum, supporting declaration and exhibits, Plaintiff will present the Court with the relevant facts – including the Protected Material – confirming the privileged nature of Document AB000930 and that it was inadvertently produced. To fully respond to the arguments and factual issues raised in Defendants' Motion, Plaintiff respectfully requests leave to file the Protected Material under seal.
5. The documents to be sealed discuss the contents of Document AB000930 and/or other privileged material.

PROTECTED MATERIAL

6. *Opposition Memorandum:* Although Plaintiff attempted to minimize the use of Protected Material, the opposition memorandum cites privileged material. The opposition memorandum raises and responds to arguments that reference material designated as privileged. Among other things, the Opposition Memorandum references the statements of Luitpold's former counsel – Stephanie Denkowicz – who confirmed the privilege nature of Document AB000930. Plaintiff has filed a redacted version of its opposition memorandum with Protected Material removed.

7. *Supporting Exhibits to the Declaration of Jeff Leung (the "Leung Declaration"):*

Although Plaintiff attempted to minimize the use of protected material, the exhibits attached to the Leung Declaration contain or reference privileged information. The exhibits attached to the Leung Declaration are necessary to oppose Defendants' Motion. Plaintiff has filed redacted versions or placeholders to the Leung Declaration with Protected Material removed.

WHEREFORE, Plaintiff respectfully submits this motion seeking leave to file the Protected Material under seal Plaintiff's Opposition to Defendants' Motion *in Limine* to Determine Status of Document AB000930 as Record Evidence and supporting exhibits to the Declaration of Jeff Leung.

Dated: New York, New York
June 4, 2015

ARENT FOX LLP

By: /s/ Hunter T. Carter
Hunter T. Carter (HC-1844)
Jennifer L. Bougher (JB-6245)
1675 Broadway
New York, New York 10019
Telephone: (212) 484-3900
Facsimile: (212) 484-3990
Attorneys for Plaintiff
Luitpold Pharmaceuticals, Inc.

So ordered.

K.B. [Signature]
WDS

6/8/15